

State of South Dakota

EIGHTY-FOURTH SESSION LEGISLATIVE ASSEMBLY, 2009

870Q0143

SENATE ENGROSSED NO. **SB 77** - 2/17/2009

Introduced by: Senators Gant, Abdallah, Adelstein, Dempster, Gray, Haverly, Heidepriem, Knudson, Maher, Merchant, Miles, Nelson, and Nesselhuf and Representatives Dreyer, Brunner, Curd, Cutler, Elliott, Fargen, Gosch, Greenfield, Jensen, Kirkeby, Kirschman, Krebs, Lederman, Lust, Moser, Novstrup (David), Nygaard, Peters, Rausch, Rave, Rounds, Solberg, Solum, Turbiville, and Verchio

1 FOR AN ACT ENTITLED, An Act to repeal the maximum number of off-sale alcoholic
2 beverage licenses that may be issued to any person, corporation, or business entity and to
3 establish requirements for physical barriers for certain off-sale alcoholic beverage
4 establishments.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 Section 1. That § 35-4-4 be amended to read as follows:

7 35-4-4. No person, corporation, or business entity may hold or have an interest in more than
8 three retail licenses issued under subdivision 35-4-2(3), (4), (6), or (13). However, a person,
9 corporation, or business entity may hold or have an interest in three additional retail licenses
10 issued under subdivision 35-4-2(4) if the licensee derives more than fifty percent of the
11 licensee's annual gross receipts from the sale of food at the location where the license is held.
12 ~~Any person, corporation, or business entity may hold or have an interest in additional retail~~
13 ~~licenses issued under subdivision 35-4-2(3) in municipalities of the first class if the licensee~~



~~derives more than fifty percent of the licensee's annual gross receipts from the sale of food, prepared food, and food ingredients at the location where the license is held. Any such new licensee under subdivision 35-4-2(3) shall sell its alcoholic beverages, other than malt beverages, in an area which is separated by a physical barrier from the rest of the establishment. For the purposes of this section, a physical barrier includes a wall or fence erected for the sole purpose of separating the area in which the alcoholic beverages are sold from the rest of the establishment. For purposes of this section, location means one contiguous piece of real estate on which sales are generated by the licensee.~~

Section 2. That chapter 35-4 be amended by adding thereto a NEW SECTION to read as follows:

Any person, corporation, or business entity that is issued a new retail license under subdivision 35-4-2(3) in a municipality of the first class after June 30, 2008, and derives more than fifty percent of the licensee's annual gross receipts from the sale of food, prepared food, and food ingredients at the location where the license is held, shall sell its alcoholic beverages, other than malt beverages, in an area which is separated by a physical barrier from the rest of the establishment. For the purposes of this section, a physical barrier includes a wall or fence erected for the sole purpose of separating the area in which the alcoholic beverages are sold from the rest of the establishment.

Section 3. That chapter 35-4 be amended by adding thereto a NEW SECTION to read as follows:

Any person, corporation, or business entity that is issued a new retail license under subdivision 35-4-2(3) after June 30, 2009, and derives less than fifty percent of the licensee's annual gross receipts from the sale of alcoholic beverages at the location where the license is held shall sell its alcoholic beverages, other than malt beverages, in an area which is separated

- 1 by a physical barrier from the rest of the establishment. For the purposes of this section, a
- 2 physical barrier includes a wall or fence erected for the sole purpose of separating the area in
- 3 which the alcoholic beverages are sold from the rest of the establishment.